REMARKS

Initially, Applicant and Applicant's attorney express appreciation to the Examiner for the courtesies extended during the telephonic interview on September 5, 2007. The amendments and remarks presented herein are consistent with those discussed during the telephonic interview.

The Office Action mailed June 11, 2007 considered claims 1-4 and 8-39. Claims 1-3, 8, 10-15, 17-20, 21-27, 29 and 31-39 were rejected under 35 U.S.C. 103(a) as being unpatentable over West et al. (US 6,449,722) hereinafter *West* in view of Fox et al. (US 6,654,786) hereinafter *Fox* in further view of Tennison et al. (US 6,522,884) hereinafter *Tennison*. Claims 11-15 and 17-20 were rejected under the same rationale as claims 1-3, 8 and 10 since they recite substantially identical subject matter. Claims 22, 24, 27, 29, 31-33 and 35 were rejected under the same rationale as claims 1-3, 8, 10 and 11, since they recite substantially identical subject matter. Claims 4 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over *West* in view of *Fox* in further view of *Tennison* in further view of Official Notice. Claims 9, 16, 30 and 34 were rejected under 35 U.S.C. 103(a) as being unpatentable over *West* in view of *Fox* in further view of *Tennison* in further view of Hibbard (US 2001/0056503) hereinafter *Hibbard*.[1]

By this amendment claims 1, 12-14, 17-19, 21-27, 29, 32-35, and 37-39 are amended and claim 40 is new.[2] Claims 5-10, 15 and 16 are cancelled. Accordingly, claims 1-4, 11-14, and 17-40 are pending, of which claims 1, 11, 12, 20, 31 are the only independent claims at issue.

The present invention is generally directed to routing notifications to mobile devices. For example, claim 1 defines communicating with a wireless device over the lower capacity first communication channel. The communication is indicative of notifications for the wireless device being routable over the lower capacity first communication channel. Claim1 further defines receiving subsequent communication through the network device. The subsequent communication notifies the notification server that the wireless device has access to the higher capacity second communication channel. The subsequent communication includes a network device address for the network device to indicate to the notification server that notifications for the wireless device are also routable to network device address over the higher capacity second communication channel.

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[1] Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

[2] Support for the amendments to the claims are found throughout the specification and previously presented claims, including but not limited to paragraphs [0029] – [0039] and Figures 2 & 3.

Next, claim 1 defines accessing a notification indicative of a change to a data object in the corresponding data store. The notification is accessed after receiving the subsequent communication through the network device and is for delivery to the wireless device. Next, claim 1 defines automatically making a first routing determination that the notification is to be routed over the higher capacity second communication channel. The first routing determination is based on the size of the notification and the availability of the higher capacity second communication channel. The first routing determination is made even though the lower capacity first communication channel also remains available. Claim 1 then defines routing the notification over the higher capacity second communication channel for delivery to the wireless device in response to the first routing determination.

Next, claim 1 defines receiving an express indication from the wireless device over the lower capacity first communication channel. The express indication indicates to the notification server that: i) the connection between the wireless device and the notification server over the higher capacity second communication channel has been lost and ii) that further notifications sent to the wireless device are to revert to being routed over the lower capacity first communication channel. Claim 1 then defines accessing a second notification indicative of a change to a second data object in the corresponding data store. The second notification is accessed after receiving the subsequent indication from the wireless device, the second notification for delivery to the wireless device.

Next, claim 1 defines automatically making a second routing determination that at least a portion of the second notification is to be routed over the lower capacity second communication channel. The second routing decision is based on the size of the notification and the loss of connection to the higher capacity second communication channel. Lastly claim 1 defines routing the at least a portion of the second notification over the lower capacity first communication channel for delivery to the wireless device in response to the second routing determination.

Claim 1 is from the perspective of a notification server. Claim 12 recites a method similar to claim 1 using functional language from the perspective of a proxy. Claims 11 and 20 are directed to corresponding computer program product claims for implementing the methods recited in claims 1 and 12, respectively. Claim 31 is a computer program product claim similar in scope to claim 25.

Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over *West* in view of *Fox*.

West discloses a system and method for maintaining a virtual connection to a network node. A user can select alternative connectivities when available based on dollar expense, available bandwidth, reliability, latency, or other considerations. Volume data delivery can be delayed. (Abstract). With respect to wireless devices, a basic hand-off algorithm is described. (Col. 3, ll. 45 – 54). Further, when connectivity is changed all communication is sent over the new connectivity. (Col. 4, ll. 33-67). *West* does not disclosure an ability to dynamically make routing decisions selecting between different connectivities at the time data (e.g., a notification) is received based on what connectivities are available.

Fox discloses an embodiment in which a GSM wireless network switches channels between a main channel and an IWF channel.[3]

Tennison is cited for teaching selecting a selecting a communication channel based on message size. (Col. 3, ll. 39-47).

Hibbard is cited as teaching determining that the wireless device no longer has access to the high capacity channel. *Hibbard* does this through ICMP pinging. (para. [0026]). However, *Hibbard* is limited to a server determination of connectivity based on ICMP pinging results. A back-up connection is not even initiated until the primary connection is determined (by the server) to be DOWN. (para. [0027]). As indicated in the office action, this is advantageous because it allows the server to determine if a connection has failed without waiting for information from the wireless device. Thus, applicants submit that *Hibbard* fails to teach determining that communication to a wireless device over one communication channel has been lost based on receipt of information from the wireless device over another communication channel.

Accordingly, the cited art fails either singly or in combination to disclose or otherwise suggest:

> "an act of automatically making a first routing determination determining that the notification is to be routed over the higher capacity second communication channel based on the size of the notification and the current availability of the higher capacity second

[3] In a prior Examiner interview, it was established that the IWF channel in Fox is not the internet, particularly since Fox discloses that the IWF channel is more expensive than the main channel, and inasmuch as the present application makes it clear that the second high capacity channel, such as the Internet, is less expensive than the first channel. (Fox Col. 12, ll. 46-54, Application p. 4, ll. 11-12).

communication channel, even though the lower capacity first communication channel also remains available;"

and

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"an act of receiving an indication from the wireless device over the lower capacity first communication channel, the indication indicating:

the connection between the wireless device and the notification server over the higher capacity second communication channel has been lost ; and

further notifications sent to the wireless device are to revert to being routed over the lower capacity first communication channel;

an act of accessing a second notification indicative of a change to a second data object in the corresponding data store, the second notification accessed after receiving the subsequent indication from the wireless device, the notification for delivery to the wireless device;

an act of automatically making a second routing determination that at least a portion of the second notification is to be routed over the lower capacity second communication channel based on the size of the notification and the loss of connection to the higher capacity second communication channel; and

an act of routing the at least a portion of the second notification over the lower capacity first communication channel for delivery to the wireless device in response to the second routing determination."

as recited in claim 1, when viewed in combination with the other limitations of claim 1. At least for this reason, claim 1 patentable defines over the art of record. At least for the same reason, claims 11, 12, 20, 31 also patentably define over the art of record.

Applicants submit that some dependent claims also provide an independent basis for patentability. For example, the cited are fails either singly or in combination to disclose or otherwise suggest "receiving an express indication from the wireless device over a wireless network, the indication indicating that the wireless device has lost a prior connection to a wired network, the connection to the wired network having been established by coupling the wireless

device to a docking station that was connected to the wired network", as recited in claim 40. Accordingly, claim 40 patentably defines over the art of record for this further reason.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 11th day of September, 2007.

Respectfully submitted,

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